

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

-

WRIT PETITION NO : 16558 of 2004

Between:

- 1 Saladi Bangaram, S/o Brahmaiah,
R/o. Market Street, Kothapeta (V & M) East Godavari (Dt.)
- 2 Borusu Naresh Kumar, S/o. Chinna Satyanarayana,
R/o. Market Street, Kothapeta (V & M) East Godavari (Dt.)
- 3 Sangeetha Narayana Rao, S/o. Venkata Ratnam,
R/o. Market Street, Kothapeta (V & M) East Godavari (Dt.)
- 4 Bandaru Rambabu, S/o. Verriah,
R/o. Market Street, Kothapeta (V & M) East Godavari (Dt.)
- 5 Chodapanadi Adinarayana, S/o. Venkanna,
R/o. Market Street, Kothapeta (V & M) East Godavari (Dt.)
- 6 Degala Subba Rao, S/o. Pallam Raju,
R/o. Market Street, Kothapeta (V & M) East Godavari (Dt.)
- 7 Bandaru Tataji, S/o. Satyanarayana,
R/o. Market Street, Kothapeta (V & M) East Godavari (Dt.)
- 8 Anala Satyasai Ramu, S/o. Satyam,
R/o. Market Street, Kothapeta (V & M) East Godavari (Dt.)
- 9 Tyagalanata Seetaiah, S/o. Raju,
R/o. Market Street, Kothapeta (V & M) East Godavari (Dt.)
- 10 Suravarapu Subba Rao, S/o. Veeraiah,
R/o. Market Street, Kothapeta (V & M) East Godavari (Dt.)
- 11 Suravarapu Subba Rao, S/o. Veeraiah,
R/o. Market Street, Kothapeta (V & M) East Godavari (Dt.)
- 12 Gangumalla Surya Bhaskar Rao, S/o. Venkateswara Rao,
R/o. Market Street, Kothapeta (V & M) East Godavari (Dt.)
- 13 Borusu Chinna Satyanarayana, S/o. Narsayya,
R/o. Market Street, Kothapeta (V & M) East Godavari (Dt.)
- 14 Kondepudi Bhuriyya, S/o. Suryanarayana,
R/o. Market Street, Kothapeta (V & M) East Godavari (Dt.)

- 15 Nimmakayala Bangaru Naidu, S/o. Chinnaiah,
R/o. Market Street, Kothapeta (V & M) East Godavari (Dt.)
- 16 Kodepui Venkateswara Rao, S/o. Suryanarayana,
R/o. Market Street, Kothapeta (V & M) East Godavari (Dt.)
- 17 Pappula Subba Rao, S/o. Ramanna,
R/o. Market Street, Kothapeta (V & M) East Godavari (Dt.)
- 18 Saladi Ganesh Kumar, S/o. Bangaram,
R/o. Market Street, Kothapeta (V & M) East Godavari (Dt.)
- 19 Addagalla Gopalakrishna, S/o. Gangaiah,
R/o. Market Street, Kothapeta (V & M) East Godavari (Dt.)
- 20 Degala Krishnam Raju, S/o. Rama Rao,
R/o. Market Street, Kothapeta (V & M) East Godavari (Dt.)
- 21 Kumpatia Srimannarayana, S/o. Sri Ram Murthy,
R/o. Market Street, Kothapeta (V & M) East Godavari (Dt.)

..... PETITIONER(S)

AND

- 1 The District Collector, East Godavari at Kakinada.
- 2 The Kothapeta Gram Panchayat, Rep by its Secretary/Executive Officer,
Kothapeta, East Godavari District.
- 3 Sri Reddy Subramanyam, Sarpanch, Kothapeta Grampanchayat,
R/o. Kothapeta, E.G. District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondents in trying to demolish the petty shops situated in Sy.No. 493 - 168, Market Street, Kothapeta (V & M) East Godavari District which are in possession and enjoyment of the petitioners since a long time, as illegal, arbitrary, without jurisdiction, and violative of principles of natural justice and consequently direct the respondents not to interfere with the possession and enjoyment of the above said shops.

Counsel for the Petitioners:MR.POLISETTI RADHA KRISHNA

Counsel for the Respondent No.1: GP FOR PANCHAYAT RAJ & RURAL DEV.

Counsel for the Respondent Nos.2 and 3: MR. D.SRINIVAS, Standing Counsel for Gram Panchayat

The Court at the stage of admission made the following:

Petitioners are claiming to be in possession of small extent of land in Survey No.493-168 of Market Street, Kothapeta, East Godavari District, and they established small shops in it for eking out their livelihood by selling vegetables, household items, provisions etc. When there was a threat for their eviction, some of them along with others filed W.P.No.15938 of 1986 before this Court, in which, obtained stay of dispossession and subsequently, the said order was modified as “it is open to the Gram Panchayat to proceed with constructions in the unoccupied land”. Later, the said writ petition was dismissed for default. In view of the said fact, the respondents are proceeding to evict the petitioners without following the due procedure. Hence, the present writ petition.

This Court, time and again, held that even an encroacher over the land, which belongs to the local bodies, is also entitled to be put on notice before evicting the said encroacher from the suit schedule property. If the occupation is objectionable and the land is required for the better use of the local bodies, the respondents

without following the due procedure cannot dispossess the encroacher from the said property. In other words, the respondents are at liberty to be put on notice to the petitioners under the provisions of the Gram Panchayat Act or Land Encroachment Act as the case may be, before evicting them from the suit schedule property.

With the above observation, the writ petition is disposed of. No costs.

15th SEPTEMBER, 2004.

Note: furnish copy by wire

at party's costs.

B/o

Kvni

To

1 The District Collector, East Godavari at Kakinada.

- 2 The Secretary/Executive Officer, Kothapeta Gram Panchayat,
Kothapeta, East Godavari District.
- 3 Sri Reddy Subramanyam, Sarpanch, Kothapeta Grampanchayat,
R/o. Kothapeta, E.G. District.

**4 Two CCs to the Government Pleader for Panchayat Raj & Rural
Development, A.P.High Court Buildings, Hyderabad (OUT)**

5 Two CD copies.